

COPY

MICHAEL J. GARCIA
United States Attorney for the
Southern District of New York
By: KATHLEEN A. ZEBROWSKI
Assistant United States Attorney
86 Chambers Street
New York, New York 10007
Telephone No.: (212) 637-2710
Fax Number : (212) 637-2717

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
UNITED STATES OF AMERICA,
:
Plaintiff, :
:
- v. - : VERIFIED COMPLAINT
:
Frances Cobian, : 08 Civ.
:
Defendant. :
-----X

Plaintiff United States of America (the "United States"), by and through its attorney, Michael J. Garcia, United States Attorney for the Southern District of New York, alleges upon information and belief that:

1. Jurisdiction is conferred on this Court pursuant to 28 U.S.C. § 1345.
2. Defendant Frances Cobian (the "defendant") resides at 2449 Tiemann Ave., Bronx, NY 10469-6205, within the Southern District of New York.

FIRST CAUSE OF ACTION

3. Defendant applied for and received a student loan from the lender whose name is set out in the defendant's promissory note(s) evidencing the loan, copies of which are annexed hereto as Exhibit A and incorporated herein.
4. Defendant defaulted on said note(s) and owes the amount said note(s) and

interest.

5. The United States is the assignee and present holder of said note(s).

6. The amount due and owing plaintiff by defendant on said note(s) is \$2,563.75, plus administrative costs in the amount of \$998.96, as of August 4, 2008, with interest accruing thereafter at the rate of 8.02 percent per annum. A Certificate of Indebtedness from the United States Department of Education is annexed hereto as Exhibit B and incorporated herein.

SECOND CAUSE OF ACTION

7. Plaintiff repeats and realleges the allegations contained in paragraphs numbered one through six.

8. Plaintiff insured the aforementioned note(s) pursuant to Title IV of the Higher Education Act of 1965, Public Law 89-329.

9. The lender made an insurance claim on the United States for the amount of the lender's loss arising from the defendant's default on said note(s), which claim has been paid by the United States to the lender.

10. Plaintiff is entitled to be indemnified by defendant in the amount of \$3,562.71 as of August 4, 2008, with interest accruing thereafter at the rate of 8.02 percent per annum.


WHEREFORE, plaintiff demands judgment against defendant in the amount of \$3,562.71 plus interest as provided by law to the date of judgment and interest from the date of judgment at the legal rate until paid in full, together with costs and disbursements and for such other and further relief as this Court deems just and proper.

Dated: New York, New York

August 4, 2008

MICHAEL J. GARCIA
United States Attorney for the
Southern District of New York
Attorney for the Plaintiff


By:


KATHLEEN A. ZEBROWSKI
Assistant United States Attorney
86 Chambers Street
New York, New York 10007
Telephone No.: (212) 637-2710

VERIFICATION

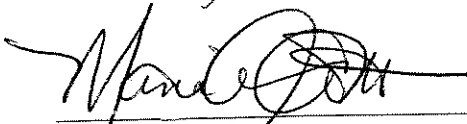
STATE OF NEW YORK)
COUNTY OF NEW YORK : ss.:
SOUTHERN DISTRICT OF NEW YORK)

KATHLEEN A. ZEBROWSKI, being duly sworn, deposes and says that she is an Assistant United States Attorney in the office of Michael J. Garcia, United States Attorney for the Southern District of New York, that she has read the foregoing complaint, and that the same is true and accurate to the best of her knowledge and belief.


KATHLEEN A. ZEBROWSKI
Assistant United States Attorney

Sworn to before me this 7th

day of August 2008


NOTARY PUBLIC

Maria A. Cotto
Notary Public, State of New York
No. 01CO5064894
Qualified in Bronx County
Commission Expires 8/26/2010

EXHIBIT A

Direct Loans

William D. Ford Federal Direct Loan Program

Federal Direct Consolidation Loan

Application

WARNING: Any person who knowingly makes a false statement or misrepresentation on this form shall be subject to penalties which may include fines, imprisonment, or both, under the U.S. Criminal Code and 20 U.S.C. 1097.

OMB No. 1840-0083
Form Approved
Exp. Date 1/31/99

460-1

Before You Begin

This form should be printed in blue or black ink or typewritten and must be signed by the applicant(s). Some items in Section A may be preprinted. Review these items carefully and correct and initial any incorrect information.

Are you presently attending school at least half time? Check the appropriate box.

Yes ☐ No ☒

Section A: Borrower Information

1. Last Name <u>Cobian</u>	First Name <u>FRANCES</u>	Middle Initial	2. Social Security Number <u>077-50-9458</u>
3. Permanent Street Address (if P.O. box, see instructions) <u>1551 Unionport Rd Apt 9A</u>			4. Home Area Code/Telephone Number <u>718 824 0368</u>
City <u>Bronx</u>	State <u>NY</u>	Zip Code <u>10462</u>	5. Driver's License Number (put state abbreviation first) <u>() NO DL</u>
6. Former Name(s) <u>None</u>			7. Date of Birth <u>5/5/59</u>
8. Employer's Name <u>Administration of Child Services</u>		9. Employer's Address <u>19 Rector St</u>	
10. Employer's Area Code/Telephone Number <u>212 643 7058</u>		City <u>New York</u>	State <u>NY</u> Zip Code <u>10006</u>
11. If you are married, does your spouse have an eligible loan(s) (see instructions) that you want to consolidate with your loan(s)? If yes, complete Section C and include your spouse's loan(s) in Section D.			

Section B: Reference Information

(See instructions before completing this section)

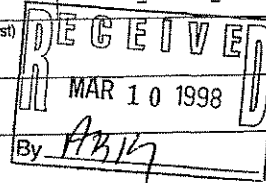
12. References:

Name	1. <u>Dianne Andujar</u>	2. <u>Victor Andujar</u>
Permanent Address	<u>2520 St Raymon</u>	<u>1990 Ellis Ave</u>
City, State, Zip Code	<u>Bronx, NY 10461</u>	<u>Bronx, NY 10472</u>
Area Code/Telephone Number	<u>(718) 863 4417</u>	<u>(718) 518 1427</u>

Section C: Spouse Information

(To be completed only if you responded "Yes" to item 11)

13. Last Name	First Name	Middle Initial	14. Social Security Number
15. Date of Birth			16. Driver's License Number (put state abbreviation first) ()
17. Former Name(s)			
18. Employer's Name		19. Employer's Address	
20. Employer's Area Code and Telephone Number ()		City	State Zip Code



[illegible]

Borrower's Name FRANCIS CODIAN
 Borrower's Social Security Number 077 50 9458

Page 3

460-1

Direct Loans

William D. Ford Federal Direct Loan Program

FEDERAL DIRECT CONSOLIDATION LOAN

SECTION E

CERTIFICATION, AUTHORIZATION, AND RELEASE

- (1) I certify that the information I (and my spouse, if applicable) am providing in this application is true, complete, and correct to the best of my knowledge and belief and is made in good faith.
- (2) I certify that all of the loans selected have been used to finance my education, my spouse's education, or my child's education.
- (3) I certify that I do not have an application pending for a Federal Consolidation Loan with any other lender.
- (4) If I am not in school and if none of the loans I am consolidating is a William D. Ford Federal Direct Loan Program (Direct Loan Program) loan, I (or my spouse, if applicable) certify that I have sought and been unable to obtain a Federal Consolidation Loan from a Federal Family Education Loan (FFEL) Program lender, or, if I am consolidating student loans, that a lender would not provide me with a Federal Consolidation Loan with income-sensitive repayment terms acceptable to me.
- (5) I certify that I do not now owe a refund on a Federal Pell Grant, Basic Educational Opportunity Grant, Federal Supplemental Educational Opportunity Grant, or State Student Incentive Grant. I further certify that I am not now in default on any loan that was received under the Federal Perkins Loan Program (including NDSL Loans), the FFEL Program, or the Direct Loan Program, or, if I am in default, I have either made satisfactory repayment arrangements with the holder of that defaulted loan or I am consolidating all of these loans and will repay under the Income Contingent Repayment Plan. I understand that income contingent repayment is not available for Federal Direct PLUS Consolidation Loans.
- (6) I understand that the amount of my Federal Direct Consolidation Loan will be the sum of the balance(s) of my outstanding eligible loan(s) that I have chosen to consolidate. My outstanding balance on each loan to be consolidated will include unpaid principal, unpaid accrued interest, and late charges as defined by federal regulations and as certified by the holder. Collection costs may also be included. For a Direct Loan or FFEL Program loan that is in default, the U.S. Department of Education (ED) limits collection costs that may be charged to the borrower to no more than those currently authorized under the FFEL Program and may impose reasonable limits on collection costs paid to the holder. If the amount ED advances to my holder(s) exceeds the amount needed to pay off the balance(s) of the selected loan(s), I understand that the holder will refund the excess to ED for application against the outstanding balance of this loan. If the amount that ED advances to my holder(s) is less than the amount needed to pay off the balance(s) of the loan(s) selected for consolidation, ED will include the remaining amount in this loan unless I pay the remaining balance myself.
- (7) I authorize ED to investigate my credit record and report information concerning my loan status to proper persons and organizations authorized to receive this information.
- (8) I authorize ED to contact the loan holder(s) identified on my application to determine the eligibility and/or payoff amount for the loan(s) I have identified.
- (9) I authorize my school(s), ED, and their agents, to verify my social security number with the Social Security Administration (SSA) and, if the social security number on my loan record is incorrect, then I authorize SSA to disclose my correct social security number to these parties.
- (10) I hereby authorize release to ED or its agent any information required to consolidate my education loan(s) pursuant to the Higher Education Act of 1965, as amended. A copy of this authorization may be deemed an original release.

28.

Signature of Borrower

Signature of Spouse (if consolidating jointly)

Date

Date

Page 4

Direct Loans

William D. Ford Federal Direct Loan Program

Federal Direct Consolidation Loan Important Notices

Privacy Act Disclosure Notice

The Privacy Act of 1974 (5 U.S.C. 552a) requires that we disclose to you the following information:

The authority for collecting this information is §451 et seq. of the Higher Education Act of 1965, as amended (the HEA) (20 U.S.C. §1087a et seq.). The principal purpose for collecting this information is to determine your eligibility for a Federal Direct Consolidation Loan under the William D. Ford Federal Direct Loan (Direct Loan) Program.

We ask that you provide the information requested on this Federal Direct Consolidation Loan Application (application) on a voluntary basis.⁴ However, you must provide all of the requested information that is available to you so the Department may process your application because the Department needs the information to determine whether you qualify for a Federal Direct Consolidation Loan.

The information in your file may be disclosed to third parties as authorized under routine uses in the Privacy Act notices called "Title IV Program Files" (originally published

on April 12, 1994, *Federal Register*, Vol. 59, p. 17351) and "National Student Loan Data System" (originally published on December 20, 1994, *Federal Register*, Vol. 59, p. 65532). Thus, this information may be disclosed to parties that we authorize to assist us in administering the Federal student aid programs, including contractors that are required to maintain safeguards under the Privacy Act. Disclosures may also be made for verification of information, determination of eligibility, enforcement of conditions of the loan or grant, debt collection, and the prevention of fraud, waste, and abuse and these disclosures may be made through computer matching programs with other Federal agencies. Disclosures may be made to determine the feasibility of entering into computer matching agreements. We may send information to members of Congress if you ask them in writing to help you with Federal student aid questions. If we are involved in litigation, we may send information to the Department of Justice (DOJ), a court, adjudicative body, counsel, or witness if the disclosure is related to financial aid and certain other conditions are met. If this information, either alone or with other information, indicates a potential violation of law, we may

send it to the appropriate authority for consideration of action and we may disclose to DOJ to get its advice related to the Title IV, HEA programs or questions under the Freedom of Information Act. Disclosures may be made to qualified researchers under Privacy Act safeguards. In some circumstances involving employment decisions, grievances, or complaints or involving decisions regarding the letting of a contract or making of a grant, license, or other benefit, we may send information to an appropriate authority. In limited circumstances, we may disclose to a Federal labor organization recognized under 5 U.S.C. Chapter 71.

Because we request your social security number (SSN), we must inform you that we collect your SSN on a voluntary basis, but section 484(a)(4) of the HEA (20 U.S.C. 1091(a)(4)) provides that, in order to receive any grant, loan, or work assistance under Title IV of the HEA, a student must provide his or her SSN. Your SSN is used to verify your identity, and as an account number (identifier) throughout the life of your loan(s) so that data may be recorded accurately.

Financial Privacy Act Notice

Under the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401-3421), ED will have access to financial records in your student loan file maintained in compliance with the administration of the Direct Loan Program.

Paperwork Reduction Notice

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a currently valid OMB control number. The valid OMB control number for this information collection is 1840-0693. The time required to complete this information collection is estimated to average 1.0 hour (60 minutes) per response, including the time to review instructions, search existing data resources, gather and maintain the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: U.S. Department of Education, Washington, DC 20202-4651. If you have any comments or concerns regarding the status of your individual submission of this form, write directly to:**

U.S. Department of Education
Consolidation Department
c/o DCS, Inc.
P.O. Box 2130
Oakland, CA 94621-0130

EXHIBIT B

U. S. DEPARTMENT OF EDUCATION
SAN FRANCISCO, CALIFORNIA

CERTIFICATE OF INDEBTEDNESS #1 OF 1

Frances Cobian
2449 Tiemann Ave.
Bronx, NY 10469-6205
Account No. 077509458

I certify that Department of Education records show that the borrower named above is indebted to the United States in the amount stated below plus additional interest from 10/24/07.

On or about 02/25/98, the borrower executed a promissory note to secure a Direct Consolidation loan from the U.S. Department of Education. This loan was disbursed for \$3,593.23 on 03/23/98, at a variable rate of interest to be established annually. The loan was made by the Department under the William D. Ford Federal Direct Loan Program under Title IV, Part D of the Higher Education Act of 1965, as amended, 20 U.S.C. 1087a et seq. (34 C.F.R. Part 685). The Department demanded payment according to the terms of the note(s), and the borrower defaulted on the obligation on 11/18/02. Pursuant to 34 C.F.R. § 685.202(b), a total of \$55.48 in unpaid interest was capitalized and added to the principal balance.

The Department has credited a total of \$1,950.00 in payments from all sources, including Treasury Department offsets, if any, to the balance. After application of these payments, the borrower now owes the United States the following:

Principal:	\$2,563.75
Interest:	\$838.75

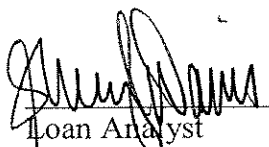
Total debt as of 10/24/07:	\$3,402.50
----------------------------	------------

Interest accrues on the principal shown here at the current rate of 8.02% per annum and a daily rate of \$.56 through June 30, 2008 and thereafter at such rate as the Department establishes pursuant to section 455(b) of the Higher Education Act of 1965, as amended, 20 U.S.C. 1087e.

Pursuant to 28 U.S.C. § 1746(2), I certify under penalty of perjury that the foregoing is true and correct.

Executed on

11/24/08


Loan Analyst
Litigation Support